

Officer History

Officer Name: Kearon, Paul

Tax ID: 948363

Sex: M

Shield: 2229

Race: White

Rank: DT3

Command: 335

DOB: 04/09/1987

Appt Date: 07/14/2009

Age: 33

Tenure: 11

CCRB #	Report Date	Incident Date	Allegation	Disposition	NYPD Disposition	NYPD Penalty	Command
201006907	05/22/2010	05/21/2010	Discourtesy - Word	Complaint Withdrawn			173
	05/22/2010	05/21/2010	Discourtesy - Action	Complaint Withdrawn			173
201110848	08/19/2011	08/16/2011	Force - Physical force	Complaint Withdrawn			163
201200527	01/11/2012	01/11/2012	Abuse - Vehicle stop	Complainant Uncooperative			163
201202343	02/22/2012	02/21/2012	Abuse - Vehicle stop	Complainant Uncooperative			163
201203311	03/14/2012	03/12/2012	Discourtesy - Word	Unsubstantiated			163
	03/14/2012	03/12/2012	Discourtesy - Action	Unsubstantiated			163
	03/14/2012	03/12/2012	Abuse - Vehicle search	Exonerated			163
201501619	03/03/2015	02/14/2015	Abuse - Vehicle stop	Exonerated			105
	03/03/2015	02/14/2015	Abuse - Vehicle search	Exonerated			105
201502254	03/27/2015	03/26/2015	Abuse - Search (of person)	Exonerated			105
	03/27/2015	03/26/2015	Abuse - Vehicle search	Exonerated			105
201503233	04/23/2015	04/23/2015		Mediated			105
	04/23/2015	04/23/2015		Mediated			105
201508895	10/19/2015	10/19/2015	Abuse - Frisk	Substantiated (Charges)	APU Closed: Retained, with discipline	Formalized Training	105
	10/19/2015	10/19/2015	Abuse - Search (of person)	Substantiated (Charges)	APU Closed: Retained, with discipline	Formalized Training	105
	10/19/2015	10/19/2015	Abuse - Stop	Substantiated (Charges)	APU Closed: Retained, with discipline	Formalized Training	105
	10/19/2015	10/19/2015	OMN - Other Misconduct	Other Misconduct	Command Level Instructions	Formalized Training	105
201508966	10/21/2015	10/20/2015	OMN - Failure to prepare a memo book entry	Other Misconduct	Command Level Instructions	Command Level Instructions	105
201605421	06/22/2016	06/22/2016	Abuse - Stop	Substantiated (Formalized Training)	No Disciplinary Action-DUP	No penalty	105

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CCRB #	Report Date	Incident Date	Allegation	Disposition	NYPD Disposition	NYPD Penalty	Command
201605421	06/22/2016	06/22/2016	Abuse - Premises entered and/or searched	Substantiated (Formalized Training)	No Disciplinary Action-DUP	No penalty	105
201700825	02/01/2017	01/31/2017	Abuse - Threat of force (verbal or physical)	Unfounded			105
	02/01/2017	01/31/2017	Abuse - Threat to damage/seize property	Unfounded			105
	02/01/2017	01/31/2017	Discourtesy - Word	Unfounded			105
	02/01/2017	01/31/2017	Force - Gun Pointed	Unfounded			105
Total Charges = 25					Total Cases = 12		

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Conway	Team: Squad #15	CCRB Case #: 201508895	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Mon, 10/19/2015 6:30 PM	Location of Incident: 225th Street and 149th Avenue	Precinct: 105	S.O.L. Expires: 04/19/2017		
Date/Time CV Reported Mon, 10/19/2015 7:12 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 10/19/2015 7:12 PM		

Complainant/Victim	Type	Home Address
[REDACTED]		

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Noll	02470	948110	105 PCT
2. POM Paul Kearon	26316	948363	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Paul Kearon	Abuse of Authority: PO Paul Kearon stopped [REDACTED]	A . Substantiated
B . POM Paul Kearon	Abuse of Authority: Paul Kearon frisked [REDACTED]	B . Substantiated
C . POM Paul Kearon	Abuse of Authority: PO Paul Kearon searched [REDACTED]	C . Substantiated
D . POM Christophe Noll	Off. Language: PO Christopher Noll made remarks to [REDACTED] based upon race.	D . Unsubstantiated
E . POM Paul Kearon	Other: PO Paul Kearon prepared false documentation.	E . Other Misconduct

Case Summary

On October 19, 2015, [REDACTED] filed this complaint with the CCRB via the online website.

Around 6:30 p.m. on October 19, 2015, [REDACTED] was emerging from Idlewild Park onto 225th Street in Queens after finishing a jog when he was stopped by PO Paul Kearon of the 105th Precinct (**Allegation A**). During the course of the interaction, PO Kearon frisked and searched [REDACTED] (**Allegations B and C**), and [REDACTED] alleged that PO Kearon's partner, PO Christopher Noll, made remarks based on his race (**Allegation D**).

[REDACTED] was not arrested nor did he receive a summons as a result of this incident.

Mediation, Civil and Criminal Histories

- During his sworn-statement, mediation was offered to [REDACTED] as an alternative to resolve his complaint, but he rejected this option as an alternative.
- A FOIL request was sent to the Office of the New York City Comptroller on December 1, 2015, seeking any notice of claim filed by [REDACTED] regarding this incident. Results will be included in this case file upon its return.
- An NYPD Booking, Arraignment, and Disposition System database search performed on December 17, 2015, indicated that [REDACTED] has no arrest history.

Civilian and Officer CCRB History

- This is the first complaint filed by [REDACTED] with the CCRB (encl. 05 Board Review).
- PO Kearon has no substantiated allegations against him in his six-year tenure with the New York City Police Department. There is no pattern of alleged misconduct similar to the allegations raised in this case.
- PO Noll has no substantiated allegations against him in his six-year tenure with the New York City Police Department. There is no pattern of alleged misconduct similar to the allegations raised in this case.

Finding and Recommendations

Recommendations

Allegation A—Force: PO Paul Kearon stopped [REDACTED]

Allegation B—Force: PO Paul Kearon frisked [REDACTED]

Allegation C—Force: PO Paul Kearon searched [REDACTED]

Officer and civilian descriptions of this incident were consistent with one another. It is undisputed that there was a smell of marijuana emanating from the park (according to [REDACTED] caused by an unknown male smoking marijuana further along down the path; encl. 01 Board Review). PO Kearon and PO Noll observed [REDACTED] walking out of Idlewild Park and stopped him immediately in front of the guardrail that marks the entrance to the jogging path. After stopping [REDACTED] PO Kearon frisked and searched him. These allegations are not in dispute, so the disposition of these allegations hinge on officer motivation.

PO Kearon's memo book entry indicated that [REDACTED] was stopped for criminal possession of marijuana, criminal trespass, and robbery, and PO Kearon prepared a Stop, Question, and Frisk report regarding the reasons behind the stop, frisk, and search (encl. 04 Board Review).

PO Kearon described (encl. 02 Board Review) observing [REDACTED] standing fully upright behind a guardrail in dim light, and he could not see anything [REDACTED] was doing, where his hands were, or if he was even facing in the officers' direction. PO Kearon smelled burning marijuana, but did not see any smoke or lit flame of any marijuana-smoking apparatus. PO Kearon stated his suspicion was raised because some New York City parks close at dusk; PO Kearon admitted he did not know when Idlewild Park closes.

Upon making these observations, PO Kearon pulled a U-turn and when he next observed [REDACTED] he saw that [REDACTED] was walking from the park trail onto 225th Street, wearing a hoodie with the hood down, and his hands were in his pockets. PO Kearon pulled up the RMP and asked [REDACTED] if he was smoking. [REDACTED] replied he was jogging, and continued walking towards the RMP. PO Kearon said that his suspicion was further raised as he believed [REDACTED] response was a lie (PO Kearon believed he was not jogging due to the marijuana smell), and he had changed directions and was moving evasively (which PO Kearon described as walking towards the RMP at a slight angle so as not to directly run into it). PO Kearon also explained that [REDACTED] was not wearing "jogging clothes"; PO Kearon could not describe what kind of clothes [REDACTED] was wearing.

Upon seeing [REDACTED] more closely, PO Kearon stated he fit the description of a robbery pattern. PO Kearon said the description of the perpetrator in the pattern was a black male in a hoodie approximately 19 years old. PO Kearon described the parameters of the robbery pattern location was Impact Zone 1 of the 105th Precinct. PO Kearon explained that his lieutenant tells him at roll call to look out for black males in hoodies inside the 105th Precinct, as they commit robberies related to this pattern. PO Kearon did not know the pattern number. PO Kearon did not know how long the pattern had been in place, or how many robberies made up the pattern or in what time frame the robberies had taken place. PO Kearon denied that Idlewild Park was a robbery-prone location, and said he has never made any arrests for robberies within Impact Zone 1 inside the confines of the robbery pattern's parameters. PO Kearon has never responded to a radio run for a robbery inside Zone 1. PO Kearon has never responded to any robbery-related call for service within the confines of the 105th Precinct.

PO Kearon exited the RMP and asked [REDACTED] to take his hands out of his pockets. [REDACTED] did not immediately comply, so PO Kearon frisked [REDACTED] waistband and torso for "officer safety." PO Kearon stated the primary reason behind the frisk was that [REDACTED] fit the description of the robbery pattern. PO Kearon did not see any bulges, and did not believe that [REDACTED] had any particular weapon, just "a weapon in general." During the frisk, PO Kearon felt a hard rectangular object in [REDACTED] jacket pocket. PO Kearon believed this object to be a Taser, but added "it could be anything." PO Kearon removed the object – which in actuality was [REDACTED] cell phone – and returned it to his pocket once satisfied it was not a weapon. PO Kearon stated that sometimes Tasers are disguised to look like cell phones.

PO Noll did not make the initial observation of [REDACTED]'s stop (encl. 03 Board Review), but generally corroborated the events. However, PO Noll described [REDACTED] as strongly smelling of marijuana and having glazed eyes, which PO Kearon did not describe. Also, PO Noll reiterated that the robbery pattern was black males in the Impact Zone, with no further description. In his interpretation of the Stop, Question and Frisk report that PO Kearon filled out, PO Noll suggested that "casing" and "lookout" referred to being in a robbery-prone location, and echoed that "drug transaction" referred to the strong smell of marijuana. PO Noll also did not believe that [REDACTED] was acting in concert with anyone else.

PO Kearon prepared a Stop, Question, and Frisk report for this stop, which he reviewed during his interview and confirmed that all details were accurate as he had initially written it. PO Kearon filled out the following justifications for the frisk and search (the report does not indicate that [REDACTED] was searched, which PO Kearon described as an "oversight").

- Inappropriate attire (PO Kearon affirmed that this referred to the hoodie, which also constituted a reason for the stop).
- Refusal to comply (PO Kearon described this as [REDACTED] nonverbally refusing to take his hands out of his pockets when initially stopped).
- Furtive movements (PO Kearon described this as [REDACTED] walking evasively, towards the RMP, with his hands in his pockets, and also as “hiding in bushes” which PO Kearon described as standing fully upright behind the guardrail on the trail. This was also a reason for the stop).

An officer must have reasonable suspicion of criminality before conducting a stop of an individual. People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 07 Board Review). An officer needs particularized reasonable suspicion that a suspect is armed and dangerous before conducting a frisk or further search. People v Forrest, 77 A.D.3d 511 (2010) (encl. 06 Board Review).

PO Kearon’s description of the “robbery pattern” is overly broad, and by his own definition would encompass any black male in a hoodie in the entire geographical area which is covered by the 105th Precinct. PO Kearon stated and documented that [REDACTED] was hiding in bushes, while at the same time he was standing erect on a park path. PO Kearon stated and documented that [REDACTED] was casing as a lookout and acting as part of a drug transaction, but also that [REDACTED] was alone and not acting in concert with anyone else. PO Kearon described [REDACTED] walking evasively as walking towards PO Kearon’s car and speaking to him.

[REDACTED] filed his complaint within an hour of the time of the incident, and there is little to suggest exaggeration in the details of his testimony. PO Kearon’s reasons behind the stop, as described above, are inconsistent, vague, and overbroad. Further, the behavior described does not even hint at involvement in a crime. PO Kearon’s frisk by his own description was likewise unjustified as he never believed specifically that [REDACTED] possessed a weapon. PO Kearon’s reasoning for the search – that some people disguise Tasers as cell phones – would suggest that any officer may have probable cause for a search so long as their suspect is carrying a cell phone. In itself, this speculative justification falls far short of the required probable cause. The investigation finds by a preponderance of the evidence that the frisk and search of [REDACTED] were not justified, and recommends that **Allegations A through C** be closed as **substantiated**.

Allegation D—Offensive Language: PO Christopher Noll made remarks to [REDACTED] based on race.

During the stop, [REDACTED] alleged that he used the slang phrase “You are doing the most” towards the officers, which he defined as being slang for the officers bothering him. In response, [REDACTED] alleged that PO Noll told him that he was “speaking Ebonics” and that he could not understand him because he spoke English.

PO Noll stated that [REDACTED] was cursing, yelling, and threatening to “hurt [the officers] financially,” but denied that he said “You’re doing the most.” PO Noll denied that he ever told [REDACTED] he was speaking “Ebonics” or using such a term towards [REDACTED] at any point of the incident.

PO Kearon denied hearing any part of this conversation, and denied that PO Noll used the term “Ebonics” towards [REDACTED] or made any similar commentary about slang or his way of speech.

As there is no independent witness or evidence to confirm or deny the allegation, the investigation cannot determine by a preponderance of the evidence whether it occurred. It is recommended that **Allegation D** be closed as **unsubstantiated**.

Allegation E—Other: PO Paul Kearon prepared false documentation.

Starting with the first line, the Stop, Question, and Frisk report that PO Kearon prepared for this stop is a list of inconsistencies, contradictions, and misrepresentations, which are listed in chronological order below.

- **Robbery:** PO Kearon listed this as the primary reason for the stop. However, PO Kearon's description of the robbery pattern, description, and location overly broad (encompassing all black males in the 105th Precinct), and he could not provide any details about the timeframe, robbery locations. PO Kearon stated he has never taken a report or made an arrest for robbery in the precinct, suggesting that neither the precinct nor PO Kearon were actually concerned with this alleged robbery pattern.
- **Search:** PO Kearon indicated that [REDACTED] was not searched, but in his testimony he said he was searched. PO Kearon said this was an error or oversight on his part.
- **Fits description:** PO Kearon checked the box indicating that [REDACTED] fit the description of a robbery perpetrator, however, PO Kearon stated that this meant black males wearing hoodies commit robberies within the confines of the 105th Precinct, with no specific description of the perpetrators or of the pattern.
- **Actions indicative of casing:** PO Kearon checked the box for actions indicative of casing. He explained in his interview that he checked this box because [REDACTED] was standing in the park and looking at houses. However, he later acknowledged in the interview that he was not sure that [REDACTED] was looking at houses.
- **Actions indicative of acting as a lookout:** PO Kearon also relied on the possibility that [REDACTED] was looking at houses when he checked the box for actions indicative of acting as a lookout. However, he denied that he thought that [REDACTED] was acting in concert with another suspect, making it impossible for him to act as a lookout.
- **Wearing clothes commonly used in commission of crime:** PO Kearon checked the box for wearing clothing used in the commission of a crime, and described this as a "big hoodie." However, PO Kearon acknowledged that the hoodie was not overly large for [REDACTED] and said he knows hoodies are a highly fashionable and common item.
- **Actions indicative of a drug transaction:** PO Kearon checked the box for actions indicative of a drug transaction, describing this as smelling marijuana. However, in his interview, PO Kearon denied that he suspected [REDACTED] of being a buyer or seller in a drug transaction.
- **Furtive movements:** PO Kearon checked the box for furtive movements and described this as [REDACTED] walking "evasively." However, PO Kearon indicated that [REDACTED] walked towards the officers' RMP, at a slight angle to not run into the front of the car.
- **Hiding in bushes in park:** PO Kearon wrote that [REDACTED] was hiding in bushes, but in his interview described [REDACTED] as at the same time standing upright behind a guardrail in Idlewild Park. There is nothing in this to suggest that [REDACTED] was hiding.
- **High incidence of reported offense:** PO Kearon checked the box for high incidence of reported offense, which he related this to the alleged "robbery pattern" within the confines of the 105th Precinct. However, in his interview PO Kearon denied that Idlewild Park is robbery-prone, and said he has never responded to a radio run regarding a robbery within the confines of the 105th Precinct.
- **Time of day/week corresponding to criminal activity:** PO Kearon checked the box for time of day/week corresponding to criminal activity. PO Kearon described this as referring to how robberies frequently occur at night, which has no reference to a specific time of day or week.
- **Proximity to scene:** PO Kearon checked the box for proximity to scene, but said that the "scene" was the entire Impact Zone 1 of the 105th Precinct, which is overly broad.

